

HOUSE MAJORITY WHIP
JAMES E. CLYBURN
THE DAILY WHIPLINE

Wednesday, March 14, 2007

House Meets At...	Votes Predicted At...
10:00 a.m. For Legislative Business	Last Vote: 4:00-5:00 p.m.
Unlimited "One-Minutes" per side	

Any anticipated Member absences for votes this week should be reported to the Office of the Majority Whip at 226-3210.

Floor Schedule and Procedure

- **Suspension Bills:** Today, the House will consider several bills on the Suspension calendar. Bills considered on the Suspension calendar are debatable for 40 minutes; may not be amended; and require a two-thirds vote for passage. If a recorded vote is requested, it will be postponed.
 1. **H.R. 1309** - The Freedom of Information Act Amendments of 2007 (*Rep. Clay - Oversight and Government Reform*)
 2. **H.R. 1255** – Presidential Records Act Amendments of 2007 (*Rep. Waxman – Oversight and Government Reform*)
 3. **H.R. 1254** - Presidential Library Donation Reform Act of 2007 (*Rep. Waxman – Oversight and Government Reform*)
- **H. Res. 239–Rule to provide for consideration of H.R. 985, Whistleblower Protection Enhancement Act of 2007 (Rep. Hastings – Rules):** Next the House will consider a structured rule for consideration of H.R. 985. The rule provides one hour and twenty minutes of general debate, with one hour equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Oversight and Government Reform and twenty minutes equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Homeland Security. The rule provides that an amendment in the nature of a substitute consisting of the text of the bill, modified by the amendments recommended by the Committee on Oversight and Government Reform now printed in the bill, shall be considered as an original bill for the purpose of amendment. The rule makes in order only those amendments

printed in the [Rules Committee report](#) accompanying the resolution, provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. Finally, the rule provides one motion to recommit with or without instructions. Debate on the rule will be managed by Rep. Hastings (FL) and will proceed in the following order:

- One hour of debate on the rule.
 - Possible vote on the Democratic motion to move the previous question. **Democrats are urged to vote YES.**
 - Vote on adoption of the rule. **Democrats are urged to vote YES.**
- **H.R. 985-Whistleblower Protection Enhancement Act of 2007 (Rep. Waxman – Oversight and Government Reform):** One hour of debate on H.R. 985 will be managed by Oversight and Government Reform Chair Henry Waxman, or his designee, an additional twenty minutes of debate will be managed by Homeland Security Chair Bennie Thompson, or his designee, and consideration will proceed in the following order:
 - One hour and twenty minutes of debate on the bill.
 - Debate and votes on amendments to the bill.
 - Possible debate and vote on a Republican motion to recommit the bill.
 - Vote on final passage of the bill. **Democrats are urged to vote YES on final passage.**

Bill Summary and Key Issues

H.R. 985-Whistleblower Protection Act of 2007

Protecting National Security Whistleblowers. H.R. 985 would give whistleblower protections to federal workers who specialize in national security issues. These are federal government employees who have undergone extensive background investigations, obtained security clearances, and handled classified information on a routine basis. Our own government has concluded that they can be trusted to work on the most sensitive law enforcement and intelligence projects. This bill would finally give these courageous individuals the protection they deserve.

Protecting Contractor Whistleblowers. H.R. 985 would ensure that employees who work for companies with government contracts are protected when they report waste, fraud, and abuse of U.S. taxpayer dollars. Existing legal protections for these employees are deficient, and often they fear that reporting an abuse of taxpayer dollars will cost them their jobs.

Protecting Scientific Whistleblowers. H.R. 985 includes a clarification regarding disclosure of actions that threaten the integrity of federal science. Over the last few years, the politicization of science has been rampant. It is important that employees who see such examples know that they are eligible for whistleblower protection, and that our science-based agencies get the clear message that retaliating against these employees is unacceptable.

Protecting All Whistleblowers. H.R. 985 responds to court decisions by the U.S. Court of Appeals for the Federal Circuit limiting the scope of disclosures protected under current law. H.R. 985 would clarify that “any” disclosure regarding waste, fraud, or abuse means “without restriction as to time, place, form, motive, context, or prior disclosure” and includes formal or informal communication. The bill also would permit a whistleblower to rebut the presumption that a federal official performed his or her duties in accordance with the law by providing substantial evidence to the contrary. The Federal Circuit has required a higher standard--irrefutable proof--to rebut this presumption. Furthermore, H.R. 985 would allow whistleblowers access to federal district courts if the Merit Systems Protection Board (MSPB) does not take action on their claims within 180 days.

Anticipated Amendments to H.R. 985

Stupak (MI) - Section 13 of the bill clarifies that instances of political interference with science are to be considered “abuses of authority” and their disclosure therefore protected. The Stupak amendment would add an example of such interference, namely preventing a federal scientist or grantee from publishing or presenting their research. – **10 minutes**

Platts (PA) - This amendment would require that the Merit Systems Protection Board rely on a consistent standard for “clear and convincing evidence” as the burden of proof that must be met to sustain an agency’s affirmative defense (that it would have taken the same personnel action independent of an employee’s protected conduct). Under the amendment, “clear and convincing evidence” would be defined as “evidence indicating that the matter to be proved is highly probable or reasonably certain.” – **10 minutes**

Platts (PA) - This amendment would clarify that an otherwise-protected disclosure cannot be disqualified because of the forum in which it is communicated. In addition, the amendment would extend equal burdens of proof and individual rights of action to those serving as witnesses in Inspector General or Special Counsel investigations, as well as to those who allege retaliation for refusing to violate the law. – **10 minutes**

Sali (ID) - This amendment would remove the provision that would make influencing federally funded scientific research an abuse of authority, which is a prohibited personnel practice.— **10 minutes**

Tierney (MA) - The amendment would change the section on national security whistleblowers to limit which members of Congress can receive information about especially sensitive subjects, such as sources and methods (to members of the intelligence committees or other relevant committees) and special access programs (to defense committees), and for other programs (to committees with oversight over the program in question). — **10 minutes**

Quote of the Day

“A spirit of harmony can only survive if each of us remembers, when bitterness and self-interest seem to prevail, that we share a common destiny.”
—Barbara Jordan

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